# LEGISLATIVE SERVICES AGENCY
## OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
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## FISCAL IMPACT STATEMENT

**LS 7967** **DATE PREPARED:** Apr 7, 1999
**BILL NUMBER:** SB 643 **BILL AMENDED:** Apr 6, 1999

**SUBJECT:** Tax credit for brownfield program.

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**FUNDS AFFECTED:** X GENERAL **IMPACT:** State & Local
X DEDICATED
FEDERAL

| STATE IMPACT | FY 1999 | FY 2000 | FY 2001 |
|---|---|---|---|
| State Revenues | | | (2,000,000) |
| State Expenditures | | | |
| Net Increase (Decrease) | | | (2,000,000) |

**Summary of Legislation:** (Amended) This bill allows a credit against state tax liability for certain voluntary environmental remediation costs. It limits the credit to $200,000 per project and $2,000,000 statewide. The bill also provides that the credit amount for each year shall be deducted from the Industrial Development Grant Fund and the Environmental Remediation Revolving Loan Fund subaccount to replenish the state General Fund.

**Effective Date:** July 1, 1999; January 1, 2000.

**Explanation of State Expenditures:** (Revised) This bill allows a credit against state tax liability for certain voluntary environmental remediation costs. Under this proposal, the Department of Revenue would incur additional administrative expenses related to updating tax forms and monitoring of the credit. Any costs associated with this proposal could be absorbed within the Department's current budget.

The Indiana Department of Environmental Management (IDEM) would be required to certify costs incurred in the voluntary remediation as qualified investments. This may result in additional administrative expenses for IDEM, although these expenses could be absorbed within its existing budget. Voluntary remediation costs are considered qualified investments if they:

(1) result from work performed in Indiana to conduct a voluntary remediation that involves the remediation of a brownfield;
(2) may not be recovered by the taxpayer from any other person after the taxpayer has made a good faith effort to recover the costs; and
(3) result in taxable income to any other Indiana taxpayer.

**Explanation of State Revenues:** (Revised) This bill allows a taxpayer to receive a tax credit equal to the lesser of 10% of a qualified investment made in the voluntary remediation of a brownfield or $200,000. A brownfield is defined as the following:

> "An industrial or commercial parcel of real estate that is abandoned or inactive, or may not be operated at its appropriate use, and on which expansion or redevelopment is complicated because of the actual or perceived presence of a hazardous substance or petroleum released into the surface or subsurface soil or groundwater that poses a risk to human health and the environment."

The credit may be taken against the taxpayer's gross income, adjusted gross income, supplemental net income (SNIT), bank, savings and loan association, insurance premiums, financial institutions, and gross retail and use tax liability. Revenue from these taxes is deposited in the state General Fund and the Property Tax Replacement Fund (PTRF). Any decrease in PTRF revenue would necessitate an increase in state General Fund transfers to the PTRF in an equal amount.

If the amount of a credit exceeds a taxpayer's liability, the excess may be carried forward for not more than five years. A taxpayer is entitled to a carryback of any unused credit for no more than five years. If a pass through entity without state tax liability is entitled to a credit, a shareholder, partner, or a member of the entity is entitled to a credit equal to the credit determined for the pass through entity multiplied by that person's share of the entity's distributive income. A pass through entity and a shareholder, partner, or member of the entity may not claim more than one credit for the same qualified investment.

The total amount of tax credits allowed may not exceed $2,000,000 in each fiscal year, although the actual impact will vary from year to year. The Department of Revenue must report the amount of credits granted each year, and 50% of this amount will be transferred from the Industrial Development Grant Fund to the state General Fund. 50% of the annual amount of credits taken will also be transferred from the subaccount of the Environmental Remediation Revolving Loan Fund to the General Fund. If the required appropriations exceed the amounts available in the Fund or subaccount, the actual appropriations will be reduced to the amount available and may not be augmented.

*Secondary impact:* The remediation of brownfields may create new jobs. New jobs will increase income tax collections, as well as increase the amount of revenue from other sources, such as the sales tax and motor vehicle excise tax.

**Explanation of Local Expenditures:** (Revised) This bill requires the legislative body of a political subdivision to approve a tax credit before it can be granted to a taxpayer. In order to approve the tax credit, the legislative body must adopt a resolution. Before adopting this resolution, the legislative body must publish a notice of the proposed resolution and the public hearing and also review a required statement of benefits submitted by the taxpayer. The costs to local units associated with these provisions are not expected to be great.

*Secondary impact:* If a county owns land that could be sold and remediated by a new owner under this bill, the county would no longer be responsible for remediation. This could result in a reduction in counties' liability for cleanup of such property.

**Explanation of Local Revenues:** (Revised) *Secondary impact:* Currently, if a property is abandoned and property tax has not been paid, the property goes to tax sale. Normally, if a parcel goes to tax sale and remains unsold, the county auditor would execute a deed to the county. However, the county auditor is not required to execute a deed to the county if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or remediation will exceed the fair market value of the property.

Under this bill, if the parcel is sold and remediated then the new owners will begin paying property tax on the property. This could result in a shift of the property tax burden from all taxpayers to the new owner of the property. If the property is developed further, the improvements made will be taxable and would increase the base of assessed value. This would create a shift in the property tax burden from other taxpayers to the new owner of the property.

**State Agencies Affected:** IDEM; Department of Revenue.

**Local Agencies Affected:** Political subdivisions containing brownfields.

**Information Sources:**